

EXECUTIVE-LEGISLATIVE RELATIONS

Contribution to the course from the perspective of constitutional theory and comparison of laws

Contents**§ 1 Theoretical and constitutional backgrounds of executive-legislative relations**

- I. The distinction between parliamentary, presidential and semi-presidential (hybrid) governing systems
- II. The design of the inter-institutional relations by the constitution
- III. The fundamental principle of separation of powers in free and democratic constitutional states based on the rule of law
- IV. The uniqueness of each constitutional institutional system and its consequences for the understanding of the executive-legislative relations
- V. Who is the final arbiter? The prerogative of the constitutional court to settle disputes between the state institutions and, thus, to develop the institutional law

§ 2 Classical questions of executive-legislative relations

- I. Who is and who determines the head of the executive branch?
- II. Can the head of the executive branch be removed and by whom and under which conditions?
 - 1) In parliamentary governing systems (→ vote of no confidence)
 - 2) In presidential and semi-presidential systems (→ impeachment)
 - 3) Latest: the two impeachments of U.S. President Donald Trump
- III. Who can dissolve the parliament and under which conditions?
- IV. The distribution of regulative powers
 - 1) Has the executive branch ordinary regulative powers under the constitution?
 - 2) When does the principle of statutory reservation apply?
 - 3) Does the legislative power extend to all fields of regulation or are there domains reserved to executive regulation?
 - 4) Can the legislator override executive regulation?
- V. The role in the legislative process
 - 1) Who can and who usually does initiate legislation?
 - 2) How is the government and/or the president usually involved in the legislative process?
 - 3) Does the president have a (political) veto power against legislation? How can a veto be overridden?
- VI. The distribution of powers in the fields of foreign and defence policy
- VII. How do the branches cooperate and how do they control each other?
- VIII. What is the role of the political parties within the institutional system and how does it affect their work?
- IX. Executive-legislative relations and supranational integration: deparliamentarisation and governmentalisation in the European Union
- X. Discussion: From democratic presidency to presidential dictatorship: Putin, Duterte, Erdogan, Trump & Co. and the temptation of authoritarianism

§ 3 Practical case on executive-legislative relations

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